

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL ACTION NO. 1:19-CV-00350-KDB**

GREGORY LEMIEUX,

Plaintiff,

v.

**KILOLO KIJAKAZI , Acting
Commissioner of Social Security,**

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff's Motion or Attorney Fees Pursuant to 42 U.S.C. § 406(b) (Doc. No. 25). For the reasons stated in the Motion, and without objection by opposing counsel, the Court will grant the motion.

However, pursuant to *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002), a claimant's attorney, not the Defendant, must "refund to the claimant the amount of the smaller fee." Accordingly, Plaintiff's counsel will reimburse Plaintiff any fees he previously received under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

IT IS THEREFORE ORDERED that Plaintiff's attorney is awarded pursuant to 42 U.S.C. § 406(b) attorney's fees in the amount of \$15,152.37. Plaintiff's counsel shall reimburse Plaintiff any fees he previously received under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

Signed: January 11, 2023



Kenneth D. Bell
United States District Judge

